



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
1009 Main Street
Tewksbury, MA 01876**

Jonathan Parker, Chairman
Carolina Linder, Vice-Chair
Steve Deackoff, Clerk
Dennis Sheehan
Anthony Ippolito

**MEETING MINUTES
March 16, 2016**

The meeting was called to order at 7:00 p.m. by Jonathan Parker, Chairman. In attendance was Steve Deackoff, and Dennis Sheehan. Also in attendance was Kyle Boyd, Conservation Agent.

Carolina Linder and Anthony Ippolito were not in attendance.

Approval of Meeting Minutes – March 3, 2016

MOTION: Mr. Deackoff made the motion to approve the March 3, 2016 meeting minutes; seconded by Mr. Sheehan and the motion carried 3-0

A) Notice of Intent, Arnold Martel, 16 Starbird Avenue, DEP #305-998

Mr. Parker noted that this matter will be continued to April 6, 2016. 7:02 p.m.

MOTION: Mr. Deackoff made the motion to continue the public hearing for Notice of Intent, Arnold Martel, 16 Starbird Avenue, DEP #305-998; seconded by Mr. Sheehan and the motion carried 3-0.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Arnold Martel, 16 Starbird Avenue, DEP #305-998 to April 6, 2016 at 7:02 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.

B) Request for Certificate of Compliance, Marc P. Ginsburg, Settler's Way, DEP #305-964

This matter was not discussed.

C) Request for Determination of Applicability, Mass DOT, Interstate 495 in Andover

Present was Tim Dexter of Mass DOT Environmental Services, Jared Durante of Jacobs Engineering, James Nestor of McCore Construction, and Mike Turgeon of Jacobs Engineering. Mr. Dexter noted that they are present to discuss the I495 advanced transportation management system project and explained that Mass DOT's top two priorities are public safety and to provide excellent customer service and this project will help do this along I495. The project involves work in 10 towns and all filings have been made in those towns. Tewksbury is the last town they will be presenting to. Mr. Dexter explained that all of

the work is in the buffer zone and consists of the installation of “a couple of” cameras on poles, one north bound and one southbound, to monitor traffic and a variable message sign to provide updates and warnings on traffic, weather, amber alerts, etc. Mr. Dexter explained that a very small portion of the work is in the outer edge of the 100 buffer zone.

Mr. Turgeon explained that the variable message sign will be located at the Route 133 and I495 interchange. The sign itself will be located in Andover just over the town line. Mr. Turgeon explained that the project is picking up communications and electrical cables and there is a directional drill outside of the jurisdictional area. Trenching will occur along the southbound side to the Andover line. Mr. Turgeon noted that the wetland itself is a pretty marginal wetland located in the median of Route 495. The northbound side of the road is between the work and the wetland.

Mr. Boyd noted that he was unable to look at this site given its location and noted that in Figure 3 the area appears to be very saturated. Mr. Turgeon explained that is the shadow of the shrubs in the area.

Mr. Parker opened the hearing the public and no one came forward to comment.

MOTION: Mr. Deackoff made the motion to close the public hearing portion, request for determination of applicability, Mass DOT, Interstate 495 in Andover, seconded by Mr. Sheehan and the motion carried 3-0.

MOTION: Mr. Deackoff made the motion for a negative determination, Mass DOT, Interstate 495 in Andover; seconded by Mr. Sheehan and the motion carried 3-0.

D) Request for Determination of Applicability, Andrew Masotta, 382 Clark Road, Map 13, Lot 1

Present was Andrew Massota of 382 Clark Road. Mr. Masotta explained that he would like to convert a porch into a four season room. Mr. Boyd explained that he printed out a picture of the area for the commission and noted that it is within 200 feet of the river, but there is not much additional disturbance. Mr. Boyd noted that he has no issues so long as the erosion controls are properly installed.

MOTION: Mr. Deackoff made the motion to close the public hearing portion, request for determination of applicability, Andrew Masotta, 382 Clark Road, Map 13, Lot 1; seconded by Mr. Sheehan and the motion carried 3-0.

MOTION: Mr. Deackoff made the motion for a negative determination, Andrew Masotta, 382 Clark Road, Map 13, Lot 1, standard order of conditions, erosion controls shall be installed; seconded by Mr. Sheehan and the motion carried 3-0.

E) Notice of Intent, Indian Ridge Condominiums, 301 Apache Way, DEP #

Mr. Parker noted that this matter will have to be continued to the next meeting as he owns 200 Apache Way. As a result, he would have to recuse himself and there would no longer be a quorum with two other members also being absent.

MOTION: Mr. Deackoff made the motion to continue the public hearing for Notice of Intent, Indian Ridge Condominiums, 301 Apache Way, DEP #; seconded by Mr. Sheehan and the motion carried 3-0.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Indian Ridge Condominiums, 301 Apache Way, DEP #; to April 6, 2016 at 7:04 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.

F) Notice of Intent, Richard Filosi, 580 Shawsheen Street, Map 84, Lot 60, DEP #

Present was Rich Kurt of LEC Environmental and Richard Filosi of 580 Shawsheen Street. Mr. Kurt explained that they filed a notice of intent to do some work at 580 Shawsheen Street. There is an existing home on the site. Mr. Kurt reviewed the resource areas and noted that Heath Brook flows to the South beneath Shawsheen Street and eventually flows into the Shawsheen River. As a result, the entire site is pretty much in the riverfront area as well as the flood plain associated with Heath Brook. The flood plain occurs at elevation 86 and the highest point on the site is just over elevation 85. Mr. Kurt noted that in addition to the existing house, there are a couple of sheds located to the rear of the house, a concrete driveway, as well as a driveway to Dunkin Donuts, and an enclosed garden in the front yard. The home is in bad shape and has been abandoned for a while. Mr. Kurt explained that they are proposing to construct an approximate 220 square foot covered porch to the front of the home and an approximate 520 square foot garage, and a deck in the rear to provide for a second means of access. Mr. Kurt explained that in order to mitigate for this, the applicant is removing impervious areas such as the two sheds, existing porch, three areas of existing concrete, removing the garden and converting it back to lawn/landscaped area as well as the other lawn areas around the house. The applicant is also proposing to improve the riverfront condition as there is a large patch of Japanese Knotweed in the area. Some of the patch will be removed for the garage and the remainder will be removed and restored with native plantings. Mr. Kurt explained that this can be a difficult plant to remove, but they have found the best way is to remove the soil that the roots and seeds are in. For the 222 square foot area, they are proposing to pull back 18 inches of soil, dispose of it off sight, and bring back 6-8 inches of top soil resulting in a lower elevation, and replanting with native plants. Mr. Kurt noted that Appendix C provides a detailed planting plan and explained that by lowering the elevation, they are able to provide for a lot of compensatory flood storage. Mr. Kurt explained that there is some filling for the garage slab, sauna tube supports, etc. All and all, there is 555 cubic feet of flood plain and they are providing more than 2,800 cubic feet of compensatory flood storage.

Mr. Kurt noted that the erosion controls are being proposed and are shown in a purple line on the plans. Compost filter tubes will be used and will also surround the restoration area. Mr. Kurt noted that they are proposing a small amount of concrete in front of the garage to ensure the driveway connects with the garage. Otherwise the project has been designed so that there is no increase in impervious area. Mr. Kurt noted that they are taking out approximately 821 square feet of impervious area and will be adding the same amount back.

Mr. Boyd noted that he likes the restoration of the Japanese Knotweed; however, he has great concern with the amount of disturbance so close to the wetlands and noted that they are proposing to put the silt sock one foot from the river in a flood plain. Mr. Boyd noted that he feels a lot more thought needs to be given to the erosion controls to ensure the site is maintained while being disturbed; if the soil is not stabilized there could be a problem. Mr. Boyd noted that the plans show the no disturb zone, but do not show the no build zone and requested this also be added to the plan. Mr. Kurt asked what the town's distances are and Mr. Boyd explained that there is a 25 foot no disturb and 50 foot no build. Mr. Kurt noted that they have marked the 10 foot, 25 foot, and the 100 foot and are doubling up on the compost filter tubes and could also propose a silt fence to help with this. The excavation effort is not expected to take longer than a couple of days. Mr. Kurt noted that they would like to do the plantings either this spring or fall and explained that in order to eliminate all of the Knotweed they need to go right up the wetland boundary. Mr. Boyd asked if the goal is to construct the garage, grade the area and then do the plantings later. Mr. Filosi explained that they would like to get rid of the Knotweed first and then start the garage and noted that there could be a point in time that they may not even do the garage. Mr. Boyd asked what the priorities are and Mr. Filosi explained that his priorities are to eliminate the Knotweed, the garden, and the covered porch to give the site a little curb appeal as it is currently a mess. Mr. Boyd noted that he is not sure if all of the grading is necessary for the garage. Mr. Boyd asked if there are trees located in the Knotweed area and Mr. Kurt explained that there are two black locus trees that will be removed and the Appendix C provides a robust shrub planting and meadow area that will be mowed once annually to maintain the area as a meadow and keep the invasives out.

Mr. Parker noted that he also visited the site and is in agreement with the removal of the knotwood, sheds, and front porch, but does not really like the position of the garage and asked if it could be moved closer to the side of the house. Mr. Filosi noted that he would not have a problem with this and can look into it.

Mr. Deackoff noted that he is having a difficult time understanding the compensatory flood. Mr. Kurt explained that whenever they are doing work within the flood plain, bordering land subject to flooding is the resource area under the Act. They look at where the flood plain is and where the elevations occur on the lot. At this lot the wetland boundary occurs at approximately elevation 80 and the highest point of the lot is elevation 85 with the flood plain being at 86. Mr. Kurt explained that by building the garage with slab and feathering of grading and footings for the porch and deck, they will now be occupying what is currently flood storage space. As a result, if and when a 100 elevation came, flood water would not be able to go where it does today because of the garage, etc. DEP requires that you mitigate for

this looking at each incremental foot. As a result, they are required to provide mitigation at the same elevation. Mr. Kurt explained that in order to remove the knotweed successfully, they will need to remove all of the soil with roots and seeds. By replacing this with just top soil it lowers the elevation to provide additional compensatory flood storage. Mr. Deackoff asked if it is wetland where the knotweed is and Mr. Kurt explained that it is not and showed the wetland line on the plan. Mr. Deackoff noted that they are almost entirely within the 25 foot no disturb for the compensatory flood storage. Mr. Boyd noted that it is also up to the wetland line. Mr. Kurt confirmed this and explained that in the end the area will still be a no disturb zone as it would be a meadow that is mowed. Mr. Deackoff explained that mowing would not be allowed as it is in the 25 foot no disturb and the purpose is to prevent erosion from going into the wetland and he does not see anything being proposed that does that. Mr. Deackoff noted that he does not understand how the project can work as it is being described as compensatory flood storage should not be right next to the wetland. Mr. Kurt explained that currently the 25 foot area is a monoculture of Japanese Knotweed and is providing a very limited function in value, by removing this and replacing it with a native plant community, they are dramatically improving the diversity such as the wildlife habitat, native plantings, etc. The soil will be stabilized within a few months of its installation. Mr. Deackoff requested Mr. Kurt show what the elevations are on the plan and Mr. Kurt explained this and noted that there are no spot grades in the wetland, but the elevation is approximately 81-82. Mr. Deackoff explained that the compensatory flood storage area may turn into wetland in the future and Mr. Kurt noted that it may. Mr. Deackoff noted that he does not see how the garage is possible. Mr. Kurt explained that they can certainly bring it back to the current grade and not have it turn into wetland; however, it was his understanding the Commissions like to see this as mitigation. Mr. Deackoff explained that the intent is not to have the compensatory flood storage area turn into wetlands. Mr. Boyd explained that it is not like storm water where you would want it as far away from the wetlands as possible as it is going towards the wetlands; this is area that absorbs flood waters. Mr. Deackoff noted that he has never seen a plan like this proposed and explained that compensatory flood storage is typically down outside the resource areas. Mr. Kurt explained that they can leave the knotwood area if the Commission prefers. Mr. Deackoff suggested having the town's consultant review the matter.

Mr. Parker opened the hearing to the public and no one came forward to comment.

MOTION: **Mr. Deackoff made the motion to continue the public hearing for Notice of Intent, Richard Filosi, 580 Shawsheen Street, Map 84, Lot 60, DEP #; seconded by Mr. and the motion carried 3-0.**

MOTION: **Mr. Deackoff made the motion to continue Notice of Intent, Richard Filosi, 580 Shawsheen Street, Map 84, Lot 60, DEP # to April 6, 2016 at 7:10 p.m.; seconded by Mr. Sheehan and the motion carried 3-0.**

G) Enforcement Order, Paul & Susan Tucceri, 30 Henry J Drive. Map 45, Lot 45

Present was Paul and Susan Tucceri of 30 Henry J Drive. Ms. Tucceri explained that they are currently in the process of adding a family suite to their home and the contractor disturbed

approximately 10 feet of the 100 foot area. Mr. Boyd requested that they stabilize the area and their contractor installed some fences and stabilized the area. Mr. Boyd visited the site again this morning and asked why it had not been seeded yet. Ms. Tucceri noted that she feels it was the result of a miscommunication as it would have been done at the end of February beginning of March and they did not think this was the ideal time to seed and thought they could wait. The intent was to reseed the area all along. The project will be completed in 6-8 weeks. Mr. Tucceri explained that the seeding will be done over the next couple of days, but the contractor was unable to attend the meeting tonight.

Mr. Boyd explained that he met with the original contractor who said erosion controls would be put at the 100 foot and that they would not go beyond that. Somewhere along the lines another contractor was hired and the erosion controls were never installed as he was not made aware. Ms. Tucceri explained that they were not aware either. Mr. Boyd noted that he would like to see this area hydro seeded as soon as possible.

MOTION: Mr. Deackoff made the motion to ratify the enforcement order for Paul and Susan Tucceri, 30 Henry J. Drive and amend the order to stabilize the soil with hydro seeding to take place prior to April 6, 2016; seconded by Mr. Sheehan and the motion carried 3-0.

H) Enforcement Order, Leo Eknaian, 12 Hinckley Road, Map 72, Lot 16

Present was Leo Eknaian of 12 Hinckley Road. Mr. Eknaian explained that he wanted to construct an addition and Mr. Boyd visited the site to help determine the wetland lines and he noticed an existing fire pit. Mr. Boyd informed him that he could not have it there and would have to fix the problem. Mr. Eknaian provided photographs of the area to the Commission members and explained that he hired a wetland scientist as well. Mr. Eknaian explained that if he removes the area it will cause more damage and asked if he could provide mitigation in another area to make up for the mistake.

Mr. Boyd explained that he noticed the 24 foot concrete structure in the 25 foot no disturb. It takes up all up one foot of the buffer. Mr. Boyd noted that there is 460 square feet of concrete in the no disturb zone and informed the homeowner that he would need to address this prior to constructing the addition.

Mr. Parker asked if the well is even on the lot and Mr. Eknaian noted that he is not sure and Mr. Parker noted that according to the map provided it is outside the property boundary. Mr. Parker asked Mr. Eknaian if he had the well installed and he confirmed this.

Mr. Deackoff asked why the fire pit is so large and Mr. Eknaian explained it was to catch the ash and prevent the fire from spreading.

Mr. Parker noted that the fire pit and the well are not on the lot and are on someone else's property. As a result, it is his assumption that they would both need to be removed. Mr.

Parker explained that even if the conservation issues are resolved this will be an issue in the future.

Mr. Deackoff explained that there is not much more that could be done other than removing the concrete structure.

Mr. Boyd suggested the members schedule a site visit and explained the enforcement orders must be sent to the property owners and suggested also sending one to the owners of MGM Plaza. Mr. Eknaian noted that this may make them angry and noted that he would prefer to approach them himself to see if something can be worked out first.

Mr. Boyd noted that the shed should be relocated outside of the wetlands, the concrete structure should be removed, and then the addition can be discussed.

MOTION: Mr. Deackoff made the motion to ratify the enforcement order for Leo Eknaian, 12 Hinckley Street, the shed shall be relocated outside of the wetlands, and the concrete fire pit structure shall be removed prior to the addition being considered; seconded by Mr. Sheehan and the motion carried 3-0.

I) National Grid, M139/M140 Transmission Line, DEP #305-996

Mr. Boyd noted that he is in receipt of correspondence from National Grid requested a nonsubstantial change for the M139/M140 transmission project they were just before the Commission on. There are four poles they need to replace resulting in an additional 100 square foot of impact. Mr. Boyd noted that the entire project has significant more impacts and this is a small amount given the scope of the project.

Old Business

There was no old business.

New Business

Mr. Parker noted that he will be resigning effective April 29, 2016 as he will be moving out of town. Mr. Boyd thanked Mr. Parker for his service on the Commission.

Adjourn.

MOTION: Mr. Deackoff made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 3-0.

Approved: 4//6/16

List of documents for 3/16/16 Agenda
Documents can be located at the Community Development Office

Approval of Minutes February 17th, 2016

- A. 7:02** Notice of Intent, Arnold Martel, 15 Starbird Avenue, DEP # 305-998
- *Review letter from Kevin Hardiman dated March 7, 2016*
 - *Grading, Drainage, and Erosion Control Plan signed and stamped by Jim Hanley dated November 6, 2015*
 - *Open Space Residential Design Special Permit printout*
 - *Notice of Intent Submittal package dated November 2015*
 - *Review letter from Bill Manuell dated November 21, 2015*
 - *Review letter from Kyle Boyd*
 - *Letter from Norse Environmental dated December 9, 2015*
 - *Definitive Subdivision Plans signed and stamped by Jim Hanley dated November 6, 2015*
- B. 7:04** Request for Certificate of Compliance, Marc P. Ginsburg , Settlers Way , DEP #305-964
- *Request for Certificate of Compliance Form 8a*
 - *Settlers Way Aerial Photos*
- C. 7:06** Request for Determination of Applicability, Mass DOT, Interstate 495 in Andover
- *Mass DOT Request for Determination of Applicability packet dated February 2016 submitted by Jacobs Engineering*
- D. 7:08** Request for Determination of Applicability, Andrew Masotta, 382 Clark Road, Map 13 Lot 1
- *Mapsonline Wetland map dated March 16, 2016*
 - *Request for Determination of Applicability form submitted by Andrew Masotta*
- E. 7:10** Notice of Intent, Indian Ridge Condominiums, 301 Apache Way, DEP #305-1004
- *Notice of Intent submittal package dated March 2016 submitted by Soliture Lake Management*
- F. 7:12** Notice of Intent, Richard Filosi, 580 Shawsheen St., Map 84 Lot 60, DEP #
- *Notice of Intent application and Wetland Analysis submitted by LEC Environmental Consultants dated March 4, 2016*
 - *'Riverfront Area & Compensatory Flood Storage Area Revegetation Plan' submitted by LEC Environmental Consultants*
- G. 7:14** Enforcement Order, Paul & Susan Tucceri, 30 Henry J Drive, Map 45 Lot 45
- *Review letter submitted by Kyle Boyd*
 - *Enforcement Order dated March 2, 2016*
- H. 7:16** Enforcement Order, Leo Eknaian, 12 Hinckley Rd, Map 72 Lot 16
- *Enforcement Order dated March 9, 2016*
 - *Plot Plan dated 4/14/04*
 - *Maps Online GIS Map dated March 11, 2016*

Old Business

- Enforcement Order Updates

New Business

- Classes being offered MACC & New England Wildflower Society
- MACC Annual Conference this Saturday
- New Gear needed for fieldwork